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7 ORINDA INTELLECTUAL PROPERTIES  
8 USA HOLDING GROUP, INC.,

9 Plaintiff,

10 v.  
11 SONY ELECTRONICS CORP.; SONY  
12 COMPUTER ENTERTAINMENT, INC.; and  
13 SONY COMPUTER ENTERTAINMENT  
14 AMERICA, INC.,

15 Defendants.

16 /  
17 No. C-09-04920 EDL

18 **ORDER ALLOWING DEFENDANTS TO  
19 FILE A MOTION TO WITHDRAW  
20 CONSENT TO PROCEED BEFORE A  
21 MAGISTRATE JUDGE**

22 On October 29, 2009, Defendants filed a Declination To Proceed Before a Magistrate Judge  
23 and Request For Reassignment to a United States District Judge. The same day, Plaintiff filed a  
24 Response stating that, while this case was pending in the Eastern District of Texas, the parties  
25 consented to proceed before a magistrate judge. Plaintiff argues that Defendants' written consent  
26 still applies after the case was transferred to the Northern District of California.

27 On July 28, 2009, counsel for Plaintiff and Defendants signed a written Consent To Proceed  
28 Before United States Magistrate Judge voluntarily consenting to have "a United States magistrate  
judge conduct any and all further proceedings in the case, including trial, order the entry of a final  
judgment, and conduct all post-judgment proceedings." This consent is not withdrawn simply  
because of an inter-district transfer of venue, and Defendants' Declination therefore appears to be  
invalid and ineffectual.

29 However, in the alternative, Defendants may move to withdraw their prior consent and vacate  
30 the reference to a magistrate judge. Withdrawal of consent in civil cases is only permitted in

1 extraordinary circumstances. See 28 U.S.C. § 636(c)(4); Fellman v. Fireman's Fund Ins. Co., 735  
2 F.2d 55, 58 (2d Cir. 1984); Dixon v. Ylst, 990 F.2d 478, 480 (9th Cir. 1993). As of yet, Defendants  
3 have not pointed to any extraordinary circumstances. If Defendants believe that there are  
4 extraordinary circumstances warranting withdrawal of consent at this time, Defendants may file a  
5 Motion on this issue which the Court will hear on an expedited basis. Defendants may file an  
6 opening brief of no more than ten pages due within one week from the date of this Order. If  
7 Defendants file a motion on this issue, Plaintiff may file an opposition of no more than ten pages  
8 within one week from the date Defendants' brief is filed. If, after reviewing the moving and  
9 opposition papers, the Court determines that a reply brief and/or a hearing is necessary, the Court  
10 will issue a further order at that time.

11 Alternatively, if Defendants determine that there are no extraordinary circumstances  
12 warranting withdrawal of consent and do not intend to file such a motion, Defendants should either  
13 withdraw their Declination or file a brief of up to ten pages within one week of the date of this Order  
14 explaining why the Declination was procedurally appropriate. Plaintiff may then file an opposition  
15 of no more than ten pages within one week from the date Defendants' brief is filed.

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17 **IT IS SO ORDERED.**

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19 Dated: October 30, 2009  
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ELIZABETH D. LAPORTE  
United States Magistrate Judge